

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20763 of 2004

Between:

G.V.Subba Rao, S/o Gajja Jyothi,
aged about 32 years, Employee,

R/o Mattam Bazaar, Jaggaipet Town,

Krishna District.

..... PETITIONER

AND

The Collector and District Magistrate, Krishna District at Machilipatnam.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Habeas Corpus and direct the production of the detenue by name Sri Gajja Jyothi, S/o Namalaiah before this Hon'ble Court and after declaring that the order of detention passed by the respondent in Rc.no.2622/2004/C1, dated 26-09-2004 is illegal, the said Sri Gajja Jyothi, S/o Namalaiah be set at liberty.

Counsel for the Petitioner: MR.E.ELLA REDDY

Counsel for the Respondent : THE ADVOCATE GENERAL

The Court at the admission stage made the following :

ORDER: (Per Sri BN.J)

This Habeas Corpus petition has been filed by the petitioner challenging the detention of his father Gajja Jyothi, hereinafter referred to as the detenu, who has been detained by the Collector and District Magistrate, Krishna District under Section 3(1) & (2) read with Section 2(a) & (b) of the Andhra Pradesh Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986.

Counter has been filed and we have heard the learned counsel for the parties.

Various contentions were urged by both the counsel and by an order of this Court dated 6.12.2004, the matter had been referred to a Full Bench along with some other matters. When the matter came up before the Full Bench, learned counsel for the petitioner submitted that he is not going to attack the detention order on the ground, which was the subject matter of the reference before the Full Bench; rather he would attack the order of detention on various other grounds. Therefore, this writ petition was directed to be deleted from the batch and accordingly it was listed before us.

One of the grounds urged by the counsel is that the District Magistrate had taken some other material into consideration which was not made available to the detenu. In this connection, learned counsel for the petitioner refers to the following assertions made in the grounds of detention.

“There are several oral complaints received against you about the illegal activities of yours are causing wide spread danger to public health and creating a feeling of insecurity among the

general public of that locality. If your activities are allowed unchecked there is every danger of its leading to Liquor Tragedies costing many lives of poor people in Jaggiahpeta town and its surroundings and thereby effects the public order.”

There is nothing on record to show that the detenu was informed about the nature of the oral complaints when the grounds of detention were communicated to him. Since the District Magistrate has taken some material into consideration before coming to the subjective satisfaction for detaining the detenu, which is not made available to the detenu, his rights under Article 22 of the Constitution of India have got prejudiced and as such the detention cannot be upheld.

Accordingly, the impugned detention order is quashed and the detenu is directed to be set at liberty forth with if not required in any other case.

The writ petition is accordingly allowed.

28..12..2004

To

1. The Collector and District Magistrate, Krishna District at Machilipatnam
2. 2 CCs to the Advocate General, High Court of A.P. Hyderabad (OUT)
- 3 2 CD copies